

REBUTTAL TESTIMONY
OF
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ENGINEERING DEPARTMENT
TELECOMMUNICATIONS DIVISION
ILLINOIS COMMERCE COMMISSION

AMERITECH ILLINOIS
DOCKET NOS. 98-0252/0335 (CONSOL.)

NONPROPRIETARY VERSION

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Attachment 22.01 - Ameritech Illinois OOS>24, 1990 - 2000

Witness Identification

Q. Are you the same Samuel S. McClerren that previously provided direct testimony in this proceeding?

A. Yes.

Description of Rebuttal Testimony

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony responds to statements made by SBC/Ameritech witnesses David H. Gebhardt, Jr. (Ameritech Illinois Exhibit 1.3) and John Hudzik (Ameritech Illinois Exhibit 12.0). I also modify my recommendation in direct testimony seeking incorporation into the plan of a wholesale performance measure regarding Ameritech Illinois' service quality to competitive local exchange companies ("CLECs").

Ameritech Illinois witness David H. Gebhardt, Jr.

Q. What statements by Mr. Gebhardt do you plan to address?

A. Mr. Gebhardt makes four statements that require response. I will list them as a group initially, and then respond to them individually. The four statements are as follows:

1. “Although the Commission is properly concerned that the Company correct the problems which have surfaced, the fact is that the Company’s network functioned flawlessly for the entirety of the five year period.” (Gebhardt, Am. Ill. Ex. 1.3, pp. 13-14).
2. “Although I am not attempting to excuse the Company’s failure to meet the OOS>24 standard during the 1994-1999 period, from a statutory perspective it is appropriate to recognize that this situation principally represented a failure to improve service quality.” (Gebhardt, Am. Ill. Ex. 1.3, p. 15).
3. “When I prepared my supplemental direct testimony for filing in June of 2000, service quality was not an issue. Ameritech Illinois made the OOS>24 standard for calendar year 1999 and had also made it for the first five months of 2000.” (Gebhardt, Am. Ill. Ex. 1.3, p. 15).
4. “Fourth, the most important question to this review proceeding is not whether service quality issues arose, but whether they were caused by the Plan. Service quality penalties were included in the Plan to disincent the Company from deliberately degrading service in order to improve earnings. (Order, p. 58). That did not happen and no one has contended otherwise.” (Gebhardt, Am. Ill. Ex. 1.3, pp. 15-16).

Q. Do you agree with Mr. Gebhardt’s first statement that “Although the Commission is properly concerned that the Company correct the problems

44 **which have surfaced, the fact is that the Company's network functioned**
45 **flawlessly for the entirety of the five year period."?**

46 A. No. It is difficult to imagine how one might characterize Ameritech's network
47 function as "flawless". The term "flawlessly" means "free from flaws" or "in excellent
48 condition." Mr. Gebhardt's statement is self-evidently incorrect.

49
50 For all of the reasons I listed in my direct testimony, such as Ameritech's problems
51 with the "Percent Out of Service > 24 Hours" standard, "Installation" performance,
52 "Operator Speed of Answer - Intercept" measure, and "Trouble Reports Per 100
53 Lines" measure, it is simply unreasonable to claim that the company's network
54 performed "flawlessly."

55
56 I am also unable to reconcile Mr. Gebhardt's position with statements made by
57 Edward J. Whitacre, Jr., Chairman and CEO of SBC during an investor
58 teleconference December 19, 2000. Mr. Whitacre said:

59 Our service at Ameritech, as all of you know is not up to the standards
60 SBC would like. It is a question of outside plant. It is not a question of
61 switching machines. It is not a question of trunking. It's strictly an
62 outside plant problem and we don't have enough capacity in some
63 places and perhaps in previous years not enough maintenance was
64 done on it. So, as Don said, we've had to divert some dollars there. I
65 have personally met in a forum with all of the regulators from all of the
66 states of Ameritech. We had told them at that meeting that we would
67 have the service back to standards by the end of this year and the
68 truth is we've met those service standards. To do that we had to add
69 a couple of thousand people, and as Don said, we loaned some in
70 from parts of SBC, Pacific, Southwestern, and Southern New
71 England. That incidentally, is one advantage of having some scale

72 and scope. So we have the service back. Ed Mueller and I, the
73 President of Ameritech, have met with a lot of most of his
74 management people in the last month and we have plans. This is
75 something we know how to do and do quickly, so we'll get the service
76 back but, there's no question its cost us a little money.
77

78 While Mr. Gebhardt appears to believe, and in any case clearly encourages the
79 Commission to believe, that Ameritech's network is without flaws, Mr. Whitacre
80 concedes that this is far from the case. Clearly, "flawless" is a term that cannot
81 reasonably be used to describe SBC/Ameritech Illinois' network service quality.
82

83 **Q. Do you agree with Mr. Gebhardt's second statement in which he says,**
84 **"[a]lthough I am not attempting to excuse the Company's failure to meet the**
85 **OOS>24 standard during the 1994-1999 period, from a statutory perspective**
86 **it is appropriate to recognize that this situation principally represented a**
87 **failure to improve service quality."**

88 **A.** No, once again he is mistaken. His statement and underlying support is built upon
89 the concept that Ameritech Illinois' OOS>24 performance remained the same under
90 the Plan as it was before the Plan. He notes that all parties recognized that
91 Ameritech Illinois was not meeting the OOS>24 standard, and the Commission's
92 standard of service was substituted. (Ameritech Exhibit No. 1.3 at 15-16). Mr.
93 Gebhardt's statement is ultimately erroneous because it claims that the Company is
94 being expected to improve service quality, contrary to the Plan.
95

As I stated in my direct testimony, the Commission sought to "...safeguard against erosion of service quality," or maintain service quality. (Staff Exhibit No. 8.0 at 3-4). What Mr. Gebhardt's statement fails to acknowledge is that the company's performance on OOS>24 has deteriorated since the inception of the Plan. Attachment 22.01 shows the company's OOS>24 performance from 1990 to 2000. Calendar year 1995 should be considered the inception of the Plan, since it was not approved by this Commission until October 1994, and service quality problems for the calendar year 1994 were not considered in the first annual reconciliation in 1995. Averaging the company's OOS>24 performance for the years 1990 to 1994 provides Ameritech Illinois' "pre-Plan" OOS>24 performance at 7.1%. Averaging the company's OOS>24 performance for the years 1995 to 2000 provides Ameritech Illinois' "Plan" OOS>24 performance of XXX%, which represents a deterioration of over XX% from "pre-Plan" levels.

Alternatively, if one does not accept the average of 1990 - 1994 as an appropriate comparison time frame, it is instructive to consider the company's OOS>24 performance for 1990 - 1991. The years 1990 and 1991 were the years used by the Commission to set the original eight benchmarks. When the Commission found that Ameritech Illinois had not met the standard for 1990 and 1991, it determined that the standard should be used instead. Assuming hypothetically that the Commission had agreed to simply "maintain" service quality for this standard also, and used the company's average performance from years 1990 and 1991, the

company would still have failed to meet the standard. Averaging the company's OOS>24 performance for the years 1990 and 1991 provides a benchmark of 7.2%. Averaging the company's OOS>24 performance for the years 1995 to 2000 provides Ameritech Illinois' "Plan" OOS>24 performance of XXX%, which represents a deterioration of over XX% from the average of 1990 and 1991 levels.

Either way one elects to view it, Ameritech Illinois' OOS>24 performance has deteriorated significantly over the course of the Plan.

Q. What are your thoughts on Mr. Gebhart's third statement that "[w]hen I prepared my supplemental direct testimony for filing in June of 2000, service quality was not an issue. Ameritech Illinois made the OOS>24 standard for calendar year 1999 and had also made it for the first five months of 2000."

A. I believe clarification is in order. If Mr. Gebhardt was trying to say that, on a cumulative, year-to-date basis, Ameritech Illinois was making the OOS>24 standard for the first five months of 2000, he was correct. If, however, Mr. Gebhardt was trying to say that Ameritech Illinois "...made it for the first five months of 2000," meaning each of the first five months of 2000, then he is mistaken. For May, the fifth month of 2000, the company reported an OOS>24 rate of 8.0%, well over the 5.0% requirement of Code Part 730 or the Plan. Additionally, for the month of June 2000,

the month in which Mr. Gebhardt indicates he was preparing his supplemental direct testimony, Ameritech Illinois' OOS>24 rate was 13.4%.

Q. Please evaluate Mr. Gebhardt's statement "[f]ourth, the most important question to this review proceeding is not whether service quality issues arose, but whether they were caused by the Plan. Service quality penalties were included in the Plan to disincent the Company from deliberately degrading service in order to improve earnings. (Order, p. 58). That did not happen and no one has contended otherwise."

A. It would be difficult for me to disagree with Mr. Gebhardt more completely. In my opinion, the Plan has contributed to Ameritech Illinois' failure on OOS>24. This is because it has been less costly for Ameritech Illinois to incur and pay the penalty (approximately \$4 million) than to meet the standard (approximately \$30 million). This concept was at the core of my testimony in Docket No. 98-0555, the SBC/Ameritech Illinois merger case. My testimony resulted in Condition 23 in the merger, which instituted a \$30 million penalty if the Company failed to meet the OOS>24 standard.

Ameritech has already acknowledged that it has missed the OOS>24 standard in 2000, and is in the process of distributing the \$30 million worth of credits to customers. Given the company's continuing inability to meet the OOS>24 standard, in spite of the additional \$30 million penalty, it appears that the penalty remains

161 inadequate. Further, the terms of the merger order may limit merger conditions to
162 three years, so even the apparently inadequate \$30 million credit may no longer
163 apply as of November 2002.

164
165 In my opinion, Ameritech has already demonstrated that it will act in an economically
166 rational manner. The level of service quality the company provides in the new Plan
167 will depend on whether or not adequate service quality penalties are built into the
168 new Plan.

169
170 Ameritech Illinois witness John Hudzik

171
172 **Q. What are your thoughts about Mr. Hudzik's testimony?**

173 A. It is more difficult to rebut someone who expresses general agreement with you, as
174 Mr. Hudzik does with my direct testimony. Ameritech Exhibit No. 12.0 at 15.
175 However, we both agree that the Company has had difficulty meeting the OOS>24
176 objective.

177
178 Much of Mr. Hudzik's testimony can be characterized as consisting of excuses and
179 promises to improve performance. See, *generally*, Ameritech Exhibit No. 12.0 at
180 1-14. As I noted in Attachment 8.03 of my direct testimony, Staff has been
181 addressing this OOS>24 problem since 1995 to try and find a way to make
182 Ameritech Illinois meet this minimum standard. Ameritech has offered a number of

excuses and explanations, such as weather and downsizing, and given many promises, such as undertaking to hire additional technicians or installing new technology, but the central problem remains. In fact, the company's September 2000 performance of 37% is the worst monthly performance I have seen over the life of the current Plan.

Since my direct testimony, which reflected Ameritech's performance through September 2000, the company's OOS>24 performance has been 14.4% in October, 5.6% in November, and is estimated to be XX% in December. Ameritech Illinois' year ending OOS>24 performance for calendar year 2000 is estimated to be XXX%. It is, therefore, hard for me to accept Ameritech's representations that solutions are just around the corner, as the company has made similar representations for some years, during which time the problem has grown worse.

Q. Are there specific points about which you disagree with Mr. Hudzik?

A. Mr. Hudzik claims that the OOS>24 objective is a very demanding objective, in an apparent attempt to minimize the validity of the standard.

Mr. Hudzik criticizes me for not stating that OOS>24 was based on actual performance in the years 1990-1991. Additionally, Mr. Hudzik claims I have significantly distorted the data to "...find other 'failures'" in Ameritech Illinois' performance. Ameritech Illinois Exhibit No. 12.0 at 14-15.

Mr. Hudzik also discusses my position on installation orders, noting that if Staff wants to propose a new definition for installation, the company will consider it. Ameritech Illinois Exhibit No. 12.0 at 26.

Q. How do you respond to Mr. Hudzik's contention that the OOS>24 standard in Illinois is "...a very demanding objective..."?

A. I believe it is simply a matter of priorities. Assuming that plant has been properly installed and maintained, responding to the standard becomes a matter of balancing force and load (i.e., making sure there is enough personnel in place to respond to the out of service conditions, or to put it less delicately, money). The standard requires the company to have adequate personnel, which is why the headcount chart in Attachment 8.02 to my direct testimony should be of such concern to the Commission. This attachment demonstrates that Ameritech, which has failed over a period of years to satisfy the OOS>24 standard, has elected to reduce the number of personnel available to deal with the problem. In my opinion, this is because Ameritech has been acting in an economically rational fashion by reducing its headcount (obviously reducing the salaries and benefits it must pay), but I do not believe the company has made a commitment to meeting this standard. While the company cannot be criticized for structuring its operations on an economical basis, it must also operate effectively, providing acceptable service to its customers.

Mr. Hudzik claims that some other jurisdictions do not have this standard, and that on an average basis Ameritech Illinois was generally consistent with, or better than, industry norms. Ameritech Illinois Exhibit No. 12.0 at 4-5. However, it is often misleading to make industry comparisons across jurisdictional lines, since many other factors have to be considered to determine a comparison's validity. In any event, the OOS>24 standard of 95% is in both Code Part 730 and the Plan, and is achievable, as evidenced by the fact that other Illinois carriers appear to have no difficulty satisfying it. Likewise, Ameritech satisfied the standard in 1992 and 1999. In any case, as Mr. Hudzik notes in another context, the performance of other companies "is irrelevant to the question of service quality under the "Alternative Regulation Plan." Ameritech Illinois Exhibit No. 12.0 at 19. Ameritech's - and only Ameritech's - service quality is at issue in this proceeding.

The OOS>24 standard measures how frequently Ameritech is able to repair out of service conditions within 24 hours. Customer whose phones are out of service cannot call family members, friends, businesses, or doctors, nor can they receive them. More importantly, such customers cannot gain access to 911 in emergencies. The OOS>24 standard is critical, and should not be minimized by calling it "demanding."

248 **Q. How do you respond to Mr. Hudzik's observation that you mistakenly**
249 **claimed that OOS>24 was based on 1990-1991 data, and that you**
250 **significantly distorted data?**

251 A. I was inaccurate when I indicated at page 4 of my direct testimony that the
252 company's performance for those years was averaged, resulting in a benchmark for
253 the eight measures. Clearly the OOS>24 standard was the only standard not based
254 on the Company's actual performance in 1990 and 1991, and I appreciate his
255 correcting the record.

256
257 Regarding his contention that I distorted the data to "...find other 'failures'" in
258 Ameritech Illinois' performance, I did not to do so, nor would I have needed to do so.
259 As Mr. Hudzik knows, the failures I reported are designed to be measured on a
260 monthly basis, are measured on a monthly basis, and are derived from reports
261 provided monthly by the company. While I will agree that some of the failures did not
262 trigger a remedy in this Plan, they nonetheless represent areas in which the
263 company has provided deficient service, and are therefore not distortions.

264
265 **Q. What is your response to Mr. Hudzik's claim that a NARUC "white paper"**
266 **produced approximately two years ago appears to contradict your position**
267 **that vertical services should not be counted as a regular service installation.**

268 A. I am unaware that a NARUC white paper has ever been "guiding" or even consulted
269 as a source for service quality standards in Illinois. As the case manager of Docket

No. 98-0453, the recently completed rulemaking regarding Code Part 730, I cannot recall ever using a NARUC white paper or hearing any other party to the rulemaking refer to a NARUC white paper. Similarly, as the current case manager in Docket No. 00-0596, the new Rulemaking on Code Part 730, I cannot recall ever using a NARUC white paper or hearing any other party to the rulemaking refer to a NARUC white paper. As my direct testimony points out, this Illinois installation standard was first defined on November 20, 1974. Even though there were minor modifications to the wording over the years, none of the other larger Illinois LECs added vertical services to their calculation of “regular service installations.” Ameritech Illinois alone among Illinois carriers arbitrarily decided to add vertical services to their reporting of “regular service installations.”

Q. Does Mr. Hudzik appear willing to consider “re-defining” the installation measure? Ameritech Illinois Exhibit. 12.0 at 26.

A. Yes, although I do not agree that it is “redefining” the installation measure. The following installation definition, which represents Staff’s position in Docket 00-0596, the recently ordered rulemaking regarding Code Part 730, is simply what was thought to exist all along:

“Regular service installations” shall be considered to include all installation and move orders of residential and business single lines, including orders for additional lines, and shall exclude orders for the following:

- (A) Advanced/Special Services (i.e., WATS, FX, DSL)
- (B) Vertical services
- (C) Payphones
- (D) Company official lines

- (E) Records work only
- (F) Orders impacted by the customer for the following reasons:
 - (i) Hold for payment
 - (ii) Customer will advise
 - (iii) Customer requested later due date
 - (iv) No access

It would be incorrect to view this definition an admission that vertical services could have ever been legitimately added to the “regular service installation” calculation.

Given that the Commission believed Ameritech Illinois was providing 95.44% of its “regular service installations” - defined as I have outlined it above - within 5 days, it would be also be incorrect to say that requiring this level is “improving,” not just “maintaining,” 1990 - 1991 service quality levels.

Wholesale Performance Measures

Q. What is Ameritech's position on including wholesale performance measures in the alternative regulation plan?

A. While Ameritech did not respond to this issue in its rebuttal testimony, it indicated in response to data request SSM002 that no wholesale service quality issues should be incorporated into a wholesale service quality component in this proceeding. Ameritech also indicated that, since the issue of wholesale service quality was addressed in Condition 30 of Docket No. 98-0555, consideration of those issues in this docket would be duplicative and inappropriate.

Q. How do you respond to this position?

A. I believe this Commission wants to foster competition, and providing the correct incentive for SBC/Ameritech Illinois to provide adequate service quality to CLECs is critical to competition. While Condition 30 in Docket No. 98-0555 does address wholesale service quality, as I noted in my direct testimony, Condition 30 does not clearly survive the three year time limit of conditions in Docket No. 98-0555.

As I stated in my stated in my direct testimony, "[a]ccordingly, I recommend that the Commission institute a wholesale service quality plan that would start in October 2002, clearly surviving the "three years after Merger Closing Date" limitation that may apply to Condition 30." Staff Exhibit 8.0 at 18. The need for such a wholesale

331 service quality plan has not changed since I submitted my direct testimony in this
332 matter.

333
334 My recommendation in this proceeding is not duplicative or inappropriate since it
335 does not overlap with the timing of the wholesale service quality program of Docket
336 No. 98-0555's Condition 30. I want to be certain that a wholesale service quality
337 program survives the three year cap for conditions in Docket No. 98-0555. I believe
338 it is critical to the development of competition in Illinois.

339
340 **Q. You indicated earlier that you wanted to modify your wholesale**
341 **performance measure recommendation. What changes are you proposing**
342 **to your direct testimony?**

343 A. What I want to change is my proposal to limit the program to "key measures." I
344 made the proposal anticipating administrative ease and the belief that many
345 measures will "shake out" by October 2002.

346
347 **Q. What are you now proposing?**

348 A. I propose that the complete set of performance measures developed in response to
349 Condition 30, combined with the results of the formal proceeding to resolve the
350 remedy plan issue, be used starting in October 2002.

351
352 **Q. Why are you changing the proposal?**

353 A. I realized that, with systems in place and all formal proceedings completed, it would
354 actually be more administratively burdensome to change the measures and develop
355 a new remedy plan for them than to simply continue with the wholesale service
356 quality program that exists in September 2002.

357

358 Conclusion

359

360 **Q. Does that conclude your testimony?**

361 A. Yes.

Graph has been deleted due to confidential material.

Years	90	91	92	93	94	95	96	97	98	99	00
OOS>24	7.5	6.8	4.6	9.8	7	14.6	14.4	13.1	13.9	4.8	XX

* 2000 YTD Estimated